IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 629 of 2003

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHANTARAM G CHAUDHARY

Versus

DIST.COLLECTOR AHMEDABAD

Appearance:

1. Special Civil Application No. 629 of 2003

PETITIONER :: IN PERSON for Self & Petitioner No.2

MR AJ DESAI AGP for Respondent No. 1

SERVED BY AFFIX.-(R) for Respondent No. 2,3

MR GM JOSHI for Respondent No. 3

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 27/09/2004

ORAL JUDGEMENT

The petitioners workmen seek direction against the District Collector, Ahmedabad, the respondent no. 1 herein for execution of the Recovery Certificate dated 5th July, 2003 issued by the Labour Court, Ahmedabad in Recovery Application No. 994 of 2000 in favour of the workmen.

The workmen were engaged by one M/s. Ramesh Textile. According to the workmen, they were employed by the said M/s. Ramesh Textile in the year 1980 and their service was wrongfully terminated in the year 1982. Feeling aggrieved, the workmen raised industrial dispute which was referred to the Labour Court, Ahmedabad and registered as Reference [LCA] No. 535 of 1983. By judgment and award dated 14th August, 1996, the claim of the workmen has been allowed by the Labour Court. The workmen have been ordered to be reinstated in service and to be paid backwages. As the award has not been implemented, the workmen have filed several recovery applications. One of the said recovery applications being Recovery Application No. 994 of 2000 was filed against the said M/s. Ramesh Textile, Shri Shaileshbhai Bhaveshbhai Textile and M/s. Neeky Plastic. The respondent no.3 herein, Shri Shaileshbhai Haribhai Patel is one of the partners in the aforesaid M/s. Neeky Plastic.

Pursuant to the order dated 1st November, 2002 made on the said Recovery Application No. 994 of 2000, the recovery certificate in the sum of Rs. 97,506=40p. has been issued on 5th July, 2003 against the said M/s. Ramesh Textile and one Shaileshbhai Haribhai Patel [the respondent no. 2 and respondent no. 3 respectively].

The said order dated 1st November, 2002 and the recovery certificate dated 5th July, 2003 had been challenged by the respondent no.3 in Special Civil Application No. 10376 of 2003. By judgment and order dated 27th September, 2004, the said petition has been allowed. It has been held that the respondent no.3 was not a party to the above referred Reference [LCA] No. 535 of 1983 and that the workmen [the present petitioners] had no claim against the respondent no.3.

The petition is, therefore, partly allowed. The respondent no.1 is directed to execute the Recovery Certificate dated 5th July, 2003 issued by the Labour Court pursuant to the Recovery Application No. 994 of 2000 as against the employer-M/s. Ramesh Textile, the respondent no.2, as expeditiously as possible. The claim for recovery made against the respondent no.3 is

rejected. The respondent no.1 shall report compliance to the Labour Court. Rule is made absolute to the above extent. The parties shall bear their own cost.

{Miss R.M Doshit, J.}

Prakash*